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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,838

10/13/2005

Yun-Seok Choi

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52706

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07/03/2007

IPLA P.A.

3580 WILSHIRE BLVD.

17TH FLOOR

LOS ANGELES, CA 90010

EXAMINER

GANESAN, SUNDHARA M

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

07/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/552,838	Applicant(s) CHOI, YUN-SEOK	
	Examiner Sundhara M. Ganesan	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/13/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. Figures 7, 8a, 8b, 9a, 9b, 10, 11, 13, & 14 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. Figure 19 is objected to because, as submitted, it has a line through the page (page 21) which makes the drawing appear crossed out. This line is probably due to a scanning or printing error, but it makes the drawing difficult to view. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement

sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 7 of the claim recites, "handle linkages". This is indefinite because it is unclear how many handle linkages are included in the device. Also, the limitation "to form a distance (d)" in the last two lines of the claim is unclear because the claim does not specify the two points that define the distance (d).

Claim 1 recites the limitation "the handle shaft" in lines 15 & 16. There is insufficient antecedent basis for this limitation in the claim because the handle shaft part was not positively recited in the claim.

Claim 2 recites the limitation "the predetermined distance" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 also recites the limitation "the handle shaft" in line 14. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voris (US Pat. 6,394,936). Voris describes substantially the same invention as claimed, including: an I shaped base frame (10), a tower (20) mounted to the top surface of the I-shaped base frame, a seat (87) mounted on the base frame, handle linkages (31) each inclinedly mounted at right and left sides of the base frame via bearings (26) in such a manner as to form an angle  $\alpha$  in front of the seat (Fig. 1) to perform angular motion back and forth; a bearing box (27) mounted on the front end of the handle linkage, first and second handle frames (24, on the left and right side of the machine) rotatably mounted on a handle shaft (26), the first handle frame being connected to the handle shaft, the second handle frame being connected to the handle shaft at an angle (Fig. 2); a handle side lever (28) fixed between the first handle frame and the bearingbox in such a manner as to form a predetermined angle with respect to the first handle frame (Fig. 1); and an auxiliary linkage (30) connected to an upper end to the handle side lever via a

ball joint (see Fig. 1) and mounted at lower end on a fixed lever (see Fig. Below) fixed to the base frame via a ball joint.

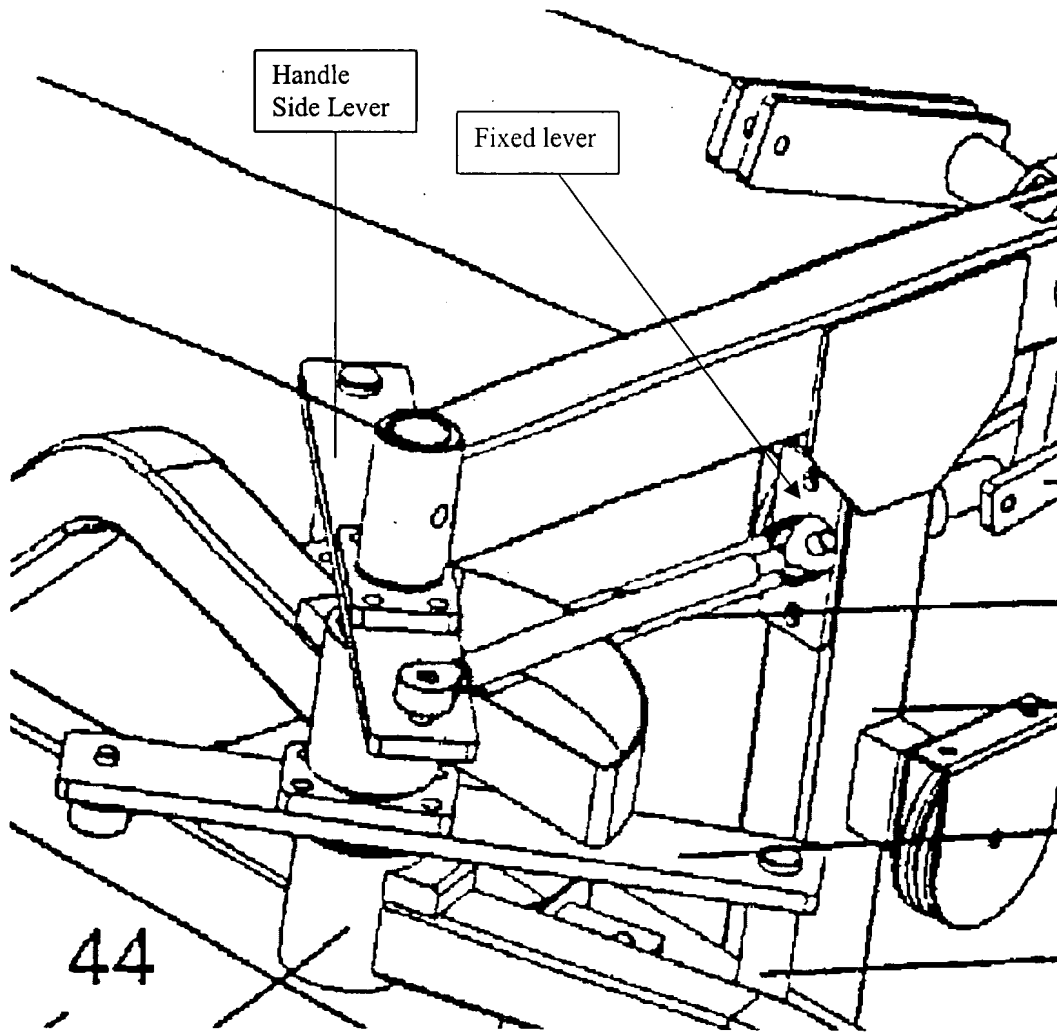


Fig. 1 of US Pat. 6,394,936 (annotated by examiner)

Voris does not show the fixed lever as being fixed to the lower end of the front side of the base frame.

At the time the invention was made, it would have been obvious to one having ordinary skill in the art to change the position of the arm assembly of Voris such that it is located on the lower front end of an exercise machine. The function and components

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are the same; only the placement on the device is changed, which would allow for exercising different muscle groups. According to MPEP §2144.04, rearrangement of parts is not a patentable advance. The operation of the parts described by Voris and the operation of the invention described in claim 1 is identical except for the placement of the arm assembly. One having ordinary skill in the art could make this rearrangement with the motivation to exercise other muscle groups on the human body. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) and MPEP §2144.04 (VI).

Regarding claim 2, Voris shows the handle linkages as axially mounted to the base frame at angles for trapezoidally angular motion of the right and left directions (see Fig. 7, the trapezoidal motion is from the path of the two hands and the points B and B'); the auxiliary linkage (30) is connected to the fixed lever (see Fig. 1 annotated above) via the ball joint in front of or behind the lower portion of the handle linkage on the base frame and is separated from the handle linkage at a predetermined distance; the ball joints located on the upper and lower portions of the auxiliary linkage (30) are arranged in a perpendicular direction to each other (Fig. 1); the bearing box (27) is fixedly mounted on the lower end of the handle linkage so that the handle shaft (26) is axially mounted to the bearing box (27) at an angle; the first handle frame is fixed to the handle shaft (Fig. 2) axially mounted to the bearing box (27) and the second handle frame is connected to the handle shaft at an angle in such a manner as to adjust an angle of a handle or to mount two or more handles (Fig. 2); the handle side lever (Fig. 1 annotated as above) is fixed between the bearing box and the first handle frame mounted on the handle shaft (26) to form a predetermined angle with respect to the handle frame (see

Fig. 1 annotation above); the handle side lever is connected to the auxiliary linkage via the ball joint and perform an angular motion in a direction of motion in a direction similar to the direction of an angular motion of the handle shaft for a smooth angular motion of the ball joint (Fig. 1 and 7).

***Allowable Subject Matter***

7. Claims 3-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892 for cited art of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sundhara M. Ganesan whose telephone number is 571-272-3340. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cary O'Connor can be reached on (571) 272-4715. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.G.  
06/23/2007



LORI AMERSON  
PRIMARY EXAMINER